

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

UNITED STATES OF AMERICA

v.

Criminal No. 2:24-cr-145

THEODORE MILLER

**RESPONSE OF THE UNITED STATES TO DEFENDANT’S PRO SE
MOTION TO REOPEN DETENTION HEARING**

COMES NOW the United States of America, by Joshua C. Hanks, Assistant United States Attorney for the Southern District of West Virginia, and hereby responds to Defendant’s *pro se* “Motion to Reverse or Revoke the Detention Order (Document 18)” ECF No. 106, filed by Defendant Theodore Miller (“Defendant”) on February 24, 2025. For the reasons set forth herein, the Court should decline to consider defendant’s motion.

First, the Court should decline to consider the motion because it has been divested of jurisdiction by defendant’s having appealed the denial of his various motions to revoke the Order of Detention in the Fourth Circuit Court of Appeals.¹ “[It is a] well-established principle that an appeal divests a trial court of jurisdiction over ‘those aspects of the case involved in the appeal.’” *Fobian v Storage Technology Corp.*, 164 F.3d 887, 890 (4th Cir. 1999) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)). Here, the instant motion directly relates to aspects of the case involved in the appeal because it is the sixth attempt to revoke the Order of Detention. ECF Nos. 20, 62, 71, 85, and 93.

¹ *United States v. Miller*, appeal docketed, No. 25-4101 (4th Cir. Feb. 24, 2025). Notice of Appeal filed on or before February 10, 2025. ECF No. 102.

Second, the Court should decline to consider the motion because it is a *pro se* filing by a represented defendant. On November 7, 2024, United States Magistrate Judge Omar J. Aboulhosn entered an Order denying defendant's first *pro se* Motion to Reopen Detention Hearing (ECF No. 71) and ordering him to "not file any further *pro se* motions regarding detention" because he was represented by counsel. ECF No. 75. On January 31, 2025, this Court entered an Order denying defendant's fourth attempt to reopen or revoke the Order for Detention. ECF No. 94. The Order admonished defendant for continuing to file *pro se* motions and stated, "the Court will not consider *pro se* motions filed by a defendant who is represented by counsel absent a sufficiently compelling circumstance." *Id.* Consequently, and consistent with its Order, this Court should decline to consider the motion.

CONCLUSION

For the foregoing reasons, the Court should decline to consider defendant's motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing “Response of the United States to Defendant’s Pro Se Motion to Reopen Detention Hearing” has been electronically filed and service has been made upon opposing counsel by virtue of such electronic filing on this 28th day of February, 2025 to:

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